

Justification & Approval (J&A)
Justification For Other Than Full And Open Competition
41 U.S.C. 3304

J&A No.: FY16-0418


Pursuant to the requirements of the Competition in Contracting Act (CICA) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.3 and in accordance with the requirements of FAR 6.303-1, the justification for the use of the statutory authority under FAR Subpart 6.3 is justified by the following facts and rationale required under FAR 6.303-2 as follows:

1. Agency and Contracting Activity.

The Department of Homeland Security, Office of Procurement Operations, National Protection and Programs Acquisition Division proposes to enter into a contract on a basis other than full and open competition.

2. Nature and/or description of the action being approved.

(a) Type of action: Firm Fixed Price Delivery Order

(b) Amount: 

(c) Type of Funding: Operational and Support Funds (Appropriated)

(d) Year of Funding: FY 2016

(e) DHS intends to procure on a sole source basis workstations, office furniture and installation services. The proposed contractor is:

Federal Prison Industries, Inc. (UNICOR)
PO Box 11890
Lexington, KY 40578

3. Description of Supplies/Services.

The requirement is to manufacture, deliver, and install office furniture to the National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C) at the Arlington, VA location. The contractor shall be responsible for all parts, labor, materials, tools, equipment and transportation necessary to deliver the specified office furniture in accordance with the Statement of Work. The furniture is required to outfit four floors being built out and is to be delivered within 60 days upon award.

4. Identification of statutory authority permitting other than full and open competition.

The statutory authority permitting other than full and open competition is 41 U.S.C. 3304(a)(5) pursuant to FAR 6.302-5(a)(1), authorized or required by statute that the acquisition be made through a specified source or another agency and 18 U.S.C. 4124 pursuant to FAR 6.302-5(b)(1), Federal Prison Industries (UNICOR).

5. Demonstration that the nature of the acquisition require use of the authority cited.

UNICOR manufactures a full range of desk, workstations, and office furniture. This requirement is specifically for workstations, work surfaces, filing cabinets, shelves, and chairs. The nature of the acquisition requires the use of the authority cited under FAR 6.302-5(b)(1), which expressly authorizes that acquisition be made from Federal Prison Industries (UNICOR) – 18 U.S.C. 4124 (see FAR Subpart 8.6). In accordance with FAR 8.602(a)(1) the items required are found to be comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery.

6. Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.

The exception cited under FAR 5.202(a)(4), applies to this acquisition because this contract action is expressly authorized by a statute to be made from a specific source. The contracting officer need not submit the notice required by FAR 5.102.

DHS intends to make this justification publically available pursuant to FAR 6.305 on FedBizOpps 14 days after contract award.

7. Determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

The Contracting Officer determines that the anticipated prices will be fair and reasonable based on comparison of proposed prices with prices obtained through market research for similar items as described in FAR 15.404-1(b)(2)(iv). Price comparability with UNICOR and other commercial companies was performed by Office of Cybersecurity and Communications (CS&C) program office. It is determined that the price from the office furniture provided by UNICOR is equal to or better than the price from companies in the commercial market that provided same or similar office furniture and is determined fair and reasonable.

8. Description of market research.

FAR 8.6 describes the use of Federal Prison Industries, Inc. (UNICOR). Specifically, in accordance with 8.602(a)(2), the CS&C program office completed Market Research (MR), which was submitted on August 24, 2016. This MR compared UNICOR office furniture to the commercial marketplace in terms of price, quality and delivery time. MR indicates that UNICOR was equal to or better than the commercial marketplace in the terms listed above. Further, MR established that there were no available inventories, including used supplies, of sufficient quantities meeting CS&C's technical requirements with the necessary warranty to cover the life of the items. The items being acquired are not items that UNICOR offers exclusively on a competitive basis. Therefore, the exception cited at FAR 8.605(f) does not apply. All other exceptions referenced at FAR 8.605 also do not apply.

9. Any other facts supporting the use of other than full and open competition.

There are no other factors for supporting the use of other than full and open competition for this requirement.

10. A listing of the sources, if any that expressed, in writing, an interest in the acquisition.

No other sources have expressed, in writing, an interest in this acquisition.

11. A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for supplies or services required.

DHS will ensure to conduct market research for future furniture requirements to ensure UNICOR's pricing, quality, and delivery time are equal or better compared to the commercial marketplace, as described in FAR 8.602(a)(1).

12. Contracting Officer's Certification and Determination.

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief. On the basis of the above information and pursuant to 8.602(a)(1), I also hereby determine that based on market research that the Federal Prison Industries, Inc. (UNICOR)'s items are comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery.

**PAULA K
NUSBAUM**

Paula Nusbaum
Contracting Officer


Digitally signed by PAULA K NUSBAUM
DN: cn=US, ou=U.S. Government, ou=Department of
Homeland Security, ou=DHS HQ, ou=People, cn=PAULA K
NUSBAUM, o=9-2342, 19100300, 100.1.1=0834204857 DHS
HQ
Date: 2016.09.23 13:27:12 -0400

9/23/16

Date

13. Technical/Requirements Personnel Certification.

I certify this requirement meets the Government's minimum need and that the supporting data, which forms a basis for this justification, is complete and accurate.



Technical Representative/COR



Date

APPROVAL:

**CAROLYN A
SMITH**

Digitally signed by CAROLYN A
SMITH
Date: 2016.09.27 11:26:35
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Carolyn A. Smith
Procuring Activity Advocate for Competition

Date